

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERBERT S. POWELL,

Defendant.

Criminal Action No.: 03-187 (JLL)

ORDER

This matter having come before the Court by way of an application for writ of error coram nobis filed by Defendant Herbert S. Powell on April 13, 2011; and it appearing that:

1. Defendant Powell has previously filed petitions under 28 U.S.C. § 2255 with this Court challenging his sentence, each of which this Court has denied. See Powell v. United States, Civ. No. 07-3417, 2007 WL 4208822 (D.N.J. Nov. 26, 2007) (denying § 2255 petition); United States v. Powell, Crim. No. 03-187, 2010 WL 1928981 (D.N.J. May 12, 2010) (denying successive § 2255 petition); Powell v. United States, Civ. No. 10-4423, Docket Entry #9 (D.N.J. Jan. 31, 2011) (same).
2. The writ of error “coram nobis is not available when a petitioner is in custody and may not be used to avoid AEDPA’s gatekeeping requirements.” Obado v. New Jersey, 328 F.3d 716, 718 (3d Cir. 2003).
3. Defendant Powell’s application indicates that he remains incarcerated at Essex County Correctional Facility in Newark, New Jersey.

IT IS on this 25th day of April, 2011,

ORDERED that Defendant Powell’s application for writ of error coram nobis (CM/ECF No. 138) is DENIED.


JOSE L. LINARES
UNITED STATES DISTRICT JUDGE